IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRIMINAL MISC.NO.43973 M of 2005

DATE OF DECISION: NOVEMBER 22. 2006

Lakhvir Singh

.....Petitioner

VERSUS

State of Punjab and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE RANJIT SINGH

PRESENT: Mr. P. S. Jammu, Advocate,
for the petitioner.

Mr. M. C. Berry, Sr.DAG, Punjab,
for the State.

None for respondent No.2.

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RANJIT SINGH, J. (ORAL)

Prayer made in the present petition is for quashing of FIR No.92 dated 9.7.2005 under Section 420 IPC, registered at Police Station Nehian Wala, District Bhatinda. The allegation made in the FIR makes a strange reading.

The petitioner, who happens to take loan of Rs.45,000/- on 12.9.2001 under the Pardhan Mantri Rozgar Yojna (Prime Minister Employment Scheme), has been saddled with a criminal liability on account of non-payment of the instalments of the loan amount. Bank has done so despite the fact that

the petitioner had repaid a sum of Rs.25,000/-. Non-payment of same led to filing of the case with further allegation that the petitioner had disposed off the assets, which he had bought out of the loan taken from the bank. It is disclosed in the petition that though the petitioner had been regularly paying the instalments till 19.5.2003 and the respondent Bank, without issuing him any communication to him that he was a defaulter and lodged the present FIR against the petitioner. It is also disclosed that a sum of Rs.6300/- was lying in another account being maintained by the petitioner in the same bank and could have very easily been adjusted against the instalments. Leaving these aspects aside, the petitioner has now averred that he has cleared the entire loan amount and accordingly, the Bank is now not aggrieved against him in any manner. In support of this submission, counsel for the petitioner has drawn my attention to letter dated 2.8.2005, Annexure P-3, which reads as under:-

> "With reference to the above case, we submit that Sh.Lakhvir Singh s/o Sh.Gurmit Singh, V.Mehma Swai has repaid his loan on 19.7.2005 fully. We withdraw the case and request you not to take any action."

It is, thus, clear that the petitioner has re-paid the entire loan on 19.7.2005 and nothing is due from him. In this background, the prayer has been made for quashing the FIR. It is further submitted that the petitioner, who is a young person and has now graduated, will suffer the stigma and consequences of this trial in case the same is allowed to continue.

Notice in this petition was issued and the service is complete. Despite service, no one has put in appearance on behalf of the respondent-Bank. Mr.Berry has rightly pointed out that the main effected party in this case is the bank, which is unrepresented. He has, however, submitted that it was not only the case of default in re-payment of loan but the assets bought from the loan amount had been allegedly sold. Be that as it may, as on date, there is no loan amount outstanding against the petitioner. The petitioner, as such had complete right over the assets that may have earlier been created through the loan amount. Accordingly, no criminal liability can be urged against the petitioner. Even otherwise also, it appears to be a case of civil liability. If the petitioner was unable to pay any instalment of the loan, it would not amount to any criminal mis-conduct. The bank was well within its right to seek recovery of the remaining loan amount by filing a civil suit. The action of the Bank in lodging a criminal prosecution and the action of the police in easily obliging the Bank can not be appreciated. Consequences are that the petitioner has been forced to approach this Court, causing him to face financial burden. The Bank would certainly be found wanting if required to explain as to in how many cases of rich and famous it had adopted this mode. Presently, the bank has expressed itself to say that they have no grievance against the petitioner. I say nothing more. Allowing the proceedings to continue would, in my view, be an abuse of process of Court, specially so when the offence alleged is compoundable. Having regard to the afore-mentioned consideration, FIR No.92 dated 9.7.2005 under Section 420 IPC, registered at Police Station Nehian Wala, District Bhatinda against the petitioner

and its subsequent proceedings are hereby quashed.

The petition is accordingly allowed.

November 22 , 2006 **(RANJIT SINGH)**
khurmi **JUDGE**